

STATE OF CALIFORNIA
FISH AND GAME COMMISSION
FINAL STATEMENT OF REASONS FOR REGULATORY ACTION

Amend Section 401
Title 14, California Code of Regulations
Re: Issuance of Permit to Take Animals Causing Damage

- I. Date of Initial Statement of Reasons: May 10, 2005
- II. Date of Pre-adoption Statement of Reasons: July 12, 2005
- III. Date of Amended Pre-adoption Statement of Reasons: September 14, 2005
- IV. Date of Final Statement of Reasons: November 17, 2005
- V. Dates and Locations of Scheduled Hearings:
- | | | | |
|-----|---------------------|-----------|------------------|
| (a) | Notice Hearing: | Date: | June 24, 2005 |
| | | Location: | Bishop |
| (b) | Discussion Hearing: | Date: | August 19, 2005 |
| | | Location: | San Luis Obispo |
| (c) | Adoption Hearing | Date: | November 4, 2005 |
| | | Location: | Santa Barbara |
- VI. Update:
- No modifications were made to the originally proposed language of the Initial Statement of Reasons.
- The Commission adopted the proposed regulations at its November 4, 2005 meeting.
- VII. Summary of Primary Considerations Raised in Support of or Opposition to the Proposed Actions and Reasons for Rejecting those considerations:

The following individual testified at the August 19, 2005 Fish and Game Commission Hearing in San Luis Obispo.

Camilla Fox
Animal Protection Institute

Description of Proposed Action by Public:

Do not delete the requirement that all animals killed under this section are killed instantly.

Recommendation:

Accept

The word “instantly” was removed inadvertently. This word has been reinserted through an editorial correction.

The following individual testified at the August 19, 2005 Fish and Game Commission Hearing in San Luis Obispo.

Camilla Fox
Animal Protection Institute

Description of Proposed Action by Public:

Do not delete the requirement that beavers and squirrels taken under depredation permits be tagged by the permittee.

Recommendation:

Reject

Analysis:

The Department does not believe that the small number of squirrels or beavers taken under depredation permits will have any significant effect on statewide populations of these species, and a requirement to tag them is not necessary.

The following individual testified at the August 19, 2005 Fish and Game Commission Hearing in San Luis Obispo.

Camilla Fox
Animal Protection Institute

Description of Proposed Action by Public:

Add a requirement that the number of animals that may be taken be specified on the depredation permit.

Recommendation:

Reject

Analysis:

The number of animals that may be taken is now specified on the permit, so this change is unnecessary.

VIII. Location and Index of Rulemaking File:

A rulemaking file with attached file index is maintained at:
California Fish and Game Commission
1416 Ninth Street
Sacramento, California 95814

IX. Location of Department files:

Department of Fish and Game

1416 Ninth Street
Sacramento, California 95814

X. Description of Reasonable Alternatives to Regulatory Action:

(a) Alternatives to Regulation Change:

No alternatives were identified.

(b) No Change Alternative:

The No Change Alternative was considered and found to be inadequate because Section 401 of Title 14 would continue to be inconsistent with Section 4181 of the Fish and Game Code.

(c) Consideration of Alternatives: In view of information currently possessed, no reasonable alternative considered would be more effective in carrying out the purposes for which the regulation is proposed or would be as effective and less burdensome to the affected private persons than the proposed regulation.

XI. Mitigation Measures Required by Regulatory Action:

The proposed regulatory action will have no negative impact on the environment; therefore, no mitigation measures are needed.

XII. Impact of Regulatory Action:

The potential for significant statewide adverse economic impacts that might result from the proposed regulatory action has been assessed, and the following determinations relative to the required statutory categories have been made:

(a) Significant Statewide Adverse Economic Impact Directly Affecting Businesses, Including the Ability of California Businesses to Compete with Businesses in Other States:

The proposed action will not have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states. The proposed regulation change is sufficiently minor that there would be no significant impact to business.

(b) Impact on the Creation or Elimination of Jobs Within the State, the Creation of New Businesses or the Elimination of Existing Businesses, or the Expansion of Businesses in California:

None

(c) Cost Impacts on a Representative Private Person or Business:

The agency is not aware of any cost impacts that a representative, private person, or business would necessarily incur in reasonable compliance with the proposed action.

- (d) Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State: None
- (e) Nondiscretionary Costs/Savings to Local Agencies: None
- (f) Programs mandated on Local Agencies or School Districts: None
- (g) Costs Imposed on Any Local Agency or School District that is Required to be Reimbursed Under Part 7 (commencing with Section 17500) of Division 4: None
- (h) Effect on Housing Costs: None

UPDATED Informative Digest/Policy Statement Overview

In 2004, the Legislature amended Section 4181 of the Fish and Game Code and added wild turkeys to the list of species for which the Department issues permits to landowners to kill animals that are damaging property (Senate Bill 1153). To provide consistency with the code change, the Department is proposing that Section 401 of Title 14, which provides for the issuance of these permits, be amended to include wild turkeys.

Additional minor amendments are proposed, which would make this section more clear and more consistent with current code and regulation sections. These minor amendments are as follows:

1. Update the title and number designating the form which is used to apply for depredation permits.
2. Change the wording in Subsection 401(a) to state that, when depredation permits are applied for in situations where damage has not yet occurred, but damage is threatened, the damage must be immediately threatened. This change would make the regulation more consistent with the authorizing code section, which states that the Department shall issue depredation permits "...upon satisfactory evidence of the damage or destruction, actual or immediately threatened ...".
3. Delete the subsection that requires that bear traps be placed only within pens, and that signs warning of bear traps be posted. This subsection is no longer needed, since the use of metal-jawed traps for bears is now prohibited.
4. Change the wording in Subsection (d)(3) to require that a permittee kill depredating animals in a humane manner, from wording that states that a permittee shall make "every effort" to kill the animals instantly. It is unclear what "every effort" might entail.
5. Delete the requirement that squirrels and beavers be tagged when taken under depredation permits. The Department believes that tagging each squirrel and beaver is unnecessary.
6. Add a requirement that report portions of tags issued in conjunction with depredation permits be mailed to the Department after animals are killed. This is the procedure currently being followed, but mailing of the report tags is not required in existing regulation wording.
7. Other minor changes are proposed for clarity.

Editorial Correction has been made to reinsert the word "instantly". Paragraph 4 was never intended to omit the word.

STATE OF CALIFORNIA
FISH AND GAME COMMISSION

ADDENDUM TO THE FINAL STATEMENT OF REASONS
OAL File No. 06-0420-05S, Section 401, Title 14, California Code of Regulations,
Re: Issuance of Permits to Take Animals Causing Damage.

1. Editorial corrections have been made to the final text of the regulations, removing a double space in subsection (h) and adding a colon following the word “note” over the authority and reference section.
2. Subsection (c) is corrected to include the form date along with the form number by adding “(new 5/05)”.
3. Subsection (h) is corrected to clarify the language by moving the new reference to “squirrels and beavers” to the end of the paragraph as “No tags are required for squirrels and beavers.”
4. The Fish and Game Commission is offering the additional information regarding why some animals require field dressing or tags. The carcass of animals shall be handled for the following reasons: species are tagged if they are a big game mammal that would normally require a tag as found in the general hunting regulation. 2. At least for most species, there will be no requirement that the carcasses be field dressed. Tags and field dressing are not required for non-game animals.
5. Section 401, Title 14, CCR language that was previously provided on the back of the form is being removed to lower form printing costs by not requiring back to back printing. Person’s requesting the application will be provided with a copy of the Title 14 language.